



**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION HELD
WEDNESDAY, JULY 22, 2020
AT 6:30 P.M.**

CALL TO ORDER OF THE PLANNING COMMISSION REGULAR MEETING

Chair Aspinall called the Regular Meeting of the Upland Planning Commission to order in the Council Chambers of the Upland City Hall at 6:31 P.M.

PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by *Commissioner Shim*.

ROLL CALL

MEMBERS PRESENT: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Grahn, Mayer, Novikov, Shim

MEMBERS ABSENT: None

ALSO PRESENT: Development Services Director and Planning Commission Secretary Dalquest, Contract Planning Manager Poland, Associate Planner Winter, Assistant Planner Hong, Senior Administrative Assistant Miller, City Attorney Flower, Deputy City Attorney Shah

APPROVAL OF MINUTES – None.

COUNCIL ACTIONS

Development Services Director Dalquest provided a brief follow up on the July 13th City Council Meeting, noting the City Council approved the ratification of an Executive Order of the Director of Emergency Services to provide a program to allow for outdoor dining and establishing funding to set up a program for local businesses to help provide for COVID compliance and security. He also noted the Council received a presentation on the Hotel Market Demand Analysis and participated in a policy discussion on murals in the downtown.

Chair Aspinall inquired as to the grant program funding.

In response to *Chair Aspinall's* inquiry, *Development Services Director Dalquest* indicated that grant funding will be provided as a result of the City's receipt of CARES Act funds.

FUTURE AGENDA ITEMS

Contract Planning Manager Poland indicated that the Commission will hear five (5) items at the August 12th special meeting, including a Planning Commissioner training; two (2) public hearings related to a proposed daycare facility and a proposed ordinance for Accessory Dwelling Units; a resolution affirming rules and procedures; and a discussion regarding the holiday schedule. He also indicated that the August 12th special meeting is a result of the cancellation of the August 26th regular meeting.

Chair Aspinall asked *Contract Planning Manager Poland* to explain to the Commission why the meetings in November and December are not scheduled at the beginning of the year.

In response to *Chair Aspinall's* request, *Contract Planning Manager Poland* indicated the Municipal Code states the Planning Commission meetings shall occur on the 4th Wednesday of every month, unless there is an affirmative action of the Planning Commission to reschedule a meeting.

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ORAL COMMUNICATIONS

Chair Aspinall stated this is the time for any citizen to comment on any items that are not listed on the agenda under “Public Hearings” but within the Planning Commission’s purview. Anyone wishing to address the Planning Commission should submit a speaker card to the Planning Secretary prior to speaking. The speakers are requested to keep their comments to five (5) minutes. The use of visual aids will be included in the time limit. Under the provisions of the Brown Act, the Planning Commission is prohibited from acting on items not listed on the agenda.

Seeing no members of the public wishing to address the Commission, *Chair Aspinall* closed oral communications.

PUBLIC HEARINGS

1. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 20-0004.

Project Description: Request for a conditional use permit to allow the reconstruction of a legal non-conforming building damaged by fire by less than 50% of its market value, and allow a 15% increase in floor area to establish a bakery and sandwich shop with outdoor patio seating.

Project Location: Property is located at 1600 W. 9th Street, further described as Assessor’s Parcel Number 1007-643-16, and zoned Business/Residential Mixed-Use (B/R-MU).

STAFF:	Jacqueline Hong, Assistant Planner
APPLICANT:	Risen Bakery and Grill Gabriel Boyadjian 4558 Fruit Street La Verne, CA. 91750
RECOMMENDATION:	That the Planning Commission: 1. Receive staff’s presentation; and 2. Hold a public hearing and receive testimony from the public; and 3. Find that the project is Categorically Exempt from further environmental proceedings pursuant to article 19, Section 15301, Existing Facilities, Class 1 (d and e), for the reconstruction of an existing legal non-conforming building damaged by fire by less than 50% of its market value and for a 15% increase in floor area to establish a bakery and sandwich shop with outdoor patio seating; and 4. Move to adopt a Resolution for approval of Conditional Use Permit No. 20-0004, based upon the findings and subject to conditions of approval as set forth in the Resolution.
COUNCIL HEARING REQUIRED:	No
APPEAL PERIOD:	July 23, 2020 – August 3, 2020

Assistant Planner Hong provided a presentation on the details of the report, including request; project site; zoning; General Plan designation; site history; nonconforming status; site plan; parking; floor plan; current and proposed exterior elevations; Technical Review Committee recommendation; CEQA exemptions; and staff recommendation. She also clarified an update to two (2) typographical errors to the draft resolution related to condition number 30.24, to correct language to read “discernable” and 30.32 to correct language to read “legally.”

Chair Aspinall inquired as to the cause of the fire and who is responsible for maintaining the parkway.

In response to *Chair Aspinall’s* inquiry, *Assistant Planner Hong* noted that the applicant will be addressing the landscaping and indicated there is a condition which requires applicant to submit an updated landscape plan prior to building permits issuance. She indicated the parkway is the public right-of-way, however it will be maintained by the property owner. She then deferred to the applicant regarding the cause of the fire.

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Commissioner Mayer inquired as to the 15% expansion, and if it falls within existing zoning and design guidelines.

In response to *Commissioner Mayer's* inquiry, *Assistant Planner Hong* affirmed that the 15% expansion conforms to the Code.

Commissioner Mayer expressed concern with the site plan related to parking placement and accessible parking stalls.

In response to *Commissioner Mayer's* inquiry, *Assistant Planner Hong* indicated staff can add a condition that requires the applicant to submit revised site plans to address the depth of the drive aisle as well as adjustments to the accessible parking area, to the satisfaction of the Development Services Director, prior to the approval of building permits.

Chair Aspinall opened the public hearing.

Gabriel Boyadjian, owner, Risen Bakery and Grill, indicated the fire began after subcontractors cut into electrical wiring, which ignited a fire. He also spoke about the business, noting the bakery is a European-style bakery with a small variety of Mediterranean sandwiches, and noted that the business will be primarily take-out. He indicated the proposed site plan is COVID-compliant and they are open to modifying the accessible parking area.

Commissioner Anderson commented positively on the building and location.

Chair Aspinall requested further information on the design of the office and building. She also inquired as to the use of the stairs as outlined on the site plan.

In response to *Chair Aspinall's* inquiry, *Gabriel Boyadjian* indicated the office will be in the back of the building to add depth, street visibility as well as ceiling access. He also indicated the business will also sell coffee and noted the stairs will be used to access the roof of the building.

Commissioner Mayer inquired as to the height of the headroom in the attic.

In response to *Commissioner Mayer's* inquiry, *Gabriel Boyadjian* indicated that the height of the headroom will be 8-feet in the attic and 10-feet in the office for depth.

Seeing no further members of the public wishing to address the Commission, *Chair Aspinall* closed the public hearing.

Commissioner Mayer commented positively on the architecture. He also spoke about Condition number 30.33, and expressed concern with severity of the revocation terms and requested the language be amended from "shall" to "may" to allow for a process for revocation in lieu of immediate revocation of the CUP.

In response to *Commissioner Mayer's* inquiry, *Deputy City Attorney Shah* indicated that if any applicant violates the terms of their CUP, it is at that point a property right, and they would be required to come before the Planning Commission for a revocation hearing.

Discussion ensued to the revocation hearing process, City Council appeal process and the history of CUP revocation hearings.

Vice Chair Schwary requested staff discuss the revocation hearing process for CUP's at the next meeting's training.

Commissioner Anderson expressed support for *Commissioner Mayer's* recommendation to change the language of Condition number 30.33 from "shall" to "may."

Vice Chair Schwary moved to find that the project is Categorical Exempt from further environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (d and e), for the reconstruction of an existing legal non-conforming building damaged by fire by less than 50% of its market value and for a 15% increase in floor area to establish a bakery and sandwich shop with outdoor patio seating; and move to adopt a Resolution for approval of Conditional Use Permit No. 20-0004, based upon the findings and subject to Conditions of Approval as set forth in the Resolution, as amended to address two (2) typographical errors related to Condition Number 30.24, to correct

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language to read “discernable” and 30.32 to correct language to read “legally;” the requirement of the applicant to submit a revised site plan to address the depth of the drive aisle as well as adjustments to the accessible parking area, to the satisfaction of the Development Services Director, prior to the approval of building permits; and to amend the language of Condition Number 30.33 from “shall” to “may.”

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote: (7-0):

AYES: *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Grahn, Mayer, Novikov, and Shim*

NAYS: None ABSTAINED: None

ABSENT: None

2. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 20-0005.

Project Description: Request for a conditional use permit to establish a firearm retailer with accessory gunsmithing.

Project Location: Property is located at 750 N. Mountain Avenue, further described as Assessor’s Parcel Number 1007-191-06, and zoned Commercial/Office Mixed-Use (C/O-MU).

STAFF:	Joshua Winter, Associate Planner
APPLICANT:	Brett and Kristina Swaim 5819 Beryl Street Rancho Cucamonga, CA 91737
RECOMMENDATION:	That the Planning Commission: 1. Receive staff’s presentation; and 2. Hold a public hearing and receive testimony from the public; and 3. Find that this project is Categorical Exempt from environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure; and 4. Move to adopt a Resolution for approval of Conditional Use Permit No. 20-0005, based upon the findings and subject to the conditions of approval as set forth in the Resolution.
COUNCIL HEARING REQUIRED:	No
APPEAL PERIOD:	July 23, 2020 – August 3, 2020

Associate Planner Winter provided a presentation on the details of the report, including request; site; building history; business operations; floor plan; security details; other agency requirements and approvals; Police Department assessed Conditions of Approval; CEQA exemptions; and staff recommendation.

Vice Chair Schwary requested confirmation that the Police Department conditions have been incorporated and they are in support of the CUP. He also inquired as to if the business will sell actual firearms.

In response to *Vice Chair Schwary’s* inquiry, *Associate Planner Winter* confirmed that the Police Department reviewed the project and did not see any further issues beyond their assessed conditions. He also indicated that the business plans to sell firearms, parts and accessories.

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Chair Aspinall spoke about Conditions 30.19 and 30.20, as discussed in the previous hearing, and suggested incorporating a similar change to the language with regards to violations and the revocation process. Additionally, she spoke about improvements to the exterior of the building and suggested incorporating landscaping and parking lot restriping.

Deputy City Attorney Shah indicated that at the appropriate time for consideration, the Commission may incorporate similar amendments to the draft Resolution as were incorporated in the previous public hearing.

Chair Aspinall opened the public hearing.

Brett Swaim, applicant, indicated the exterior improvements are in the process of being completed and were addressed as part of the escrow process. He also spoke about the family business, business model, experience, gross revenues, and the previous gun store in the City. Additionally, he mentioned advantages in owning the building since those who don't end up closing due to rising rents and filling the void of firearm sales in the City.

Commissioner Anderson spoke positively about the business and the increase in sales tax revenue as a result of the business relocating to the City of Upland.

Commissioner Mayer inquired as to what extent of the building the applicant is purchasing.

In response to *Commissioner Mayer's* inquiry, *Brett Swaim* clarified he is purchasing the entire building and will rent out the north area of the building to the existing and new tenants.

Vice Chair Schwary requested the applicant detail the security plans for the building.

In response to *Vice Chair Schwary's* inquiry, *Brett Swaim* spoke about the relationship the business has with local police departments. He also indicated that many firearm store break-ins do not occur in the state of California due to strict security requirements for gun stores. He indicated his store will have steel bars to specific standard; and outlined the door building materials, storage facilities, and shatterproof displays.

Chair Aspinall requested further detail on the steel bars on the windows and inquired as to the process for purchasing a firearm.

In response to *Chair Aspinall's* inquiry, *Brett Swaim* indicated the bars will not be visible and requested a waiver from the Commission to cover windows so that the interior is not visible to further increase security. He also spoke about security cameras which will be on the building's premises. Additionally, he spoke about the State's policy to purchase a firearm, which includes a testing requirement; including state and federal paperwork and background checks. He also mentioned a local gun range in the area which the business partners with, which they refer customers to for training and practice.

Tyler Quirk, Upland resident, spoke in support of the Conditional Use Permit and spoke about the integrity, professionalism, positive reputation and superior level of customer service of the business owners/applicants. He mentioned state requirements for the businesses with regards to the requirement to conduct business in person, noting the increase of customer traffic and patronage to surrounding businesses in the City as a result.

Seeing no further members of the public wishing to address the Commission, *Chair Aspinall* closed the public hearing.

Vice Chair Schwary spoke positively on the applicant's security measures, increase in sales tax revenue and the improvements to the exterior of the building.

Commissioner Novikov spoke in support of the business, as a result of the public testimony.

Chair Aspinall expressed interest in adding a condition related to the landscape plan.

In response to *Chair Aspinall's* inquiry, *Associate Planner Winter* suggested adding a condition which would require the applicant to submit a landscape rehabilitation plan subject to the approval of the Development Services Director.

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Vice Chair Schwary requested the applicant work with staff with regards to the coverings on the windows.

Commissioner Grahn suggested a condition be added to address parking lot refurbishments meet City standards.

Vice Chair Schwary moved to find that this project is Categorically Exempt from environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure; and moved to adopt a Resolution for approval of Conditional Use Permit No. 20-0005, based upon the findings and subject to the conditions of approval as set forth in the Resolution, as amended to include the requirement of a landscape rehabilitation plan be submitted and subject to the approval of the Development Services Director; parking lot be restriped and paved to the satisfaction of the Development Services Director; and amend the language of Condition number 30.33 from "shall" to "may."

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote: (7-0):

AYES: *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Grahn, Mayer, Novikov, Shim*

NAYS: None ABSTAINED: None

ABSENT: None

BUSINESS ITEMS – None.

COMMISSION COMMUNICATION

Vice Chair Schwary thanked *Commissioners Grahn* and *Mayer* for their input and participation.

Commissioner Anderson requested the Commission adjourn the meeting in honor and recognition of Linda Angona, for her 19 years of service to the Board of Education, Vic's Group, and the community of Upland.

ADJOURNMENT

There being no further business to come before the Planning Commission, *Chair Aspinall* adjourned the meeting at 7:40 P.M., to the special meeting of the Planning Commission on August 12, 2020, at 6:30 P.M.

Respectfully submitted,



Robert D. Dalquest, Secretary
Upland Planning Commission